

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FILED
CLERK'S OFFICE
2006 FEB 15 A 11:48

VAN A. LUPO,

Plaintiff

v.

BANK of AMERICA,

Defendant

)
)
)
)
)
)
)

U.S. DISTRICT COURT
DISTRICT OF MASS.

C.A. Number 04-40202-FDS

ASSENTED TO MOTON TO EXTEND SCHEDULING ORDER

NOW COMES the Plaintiff in the above titled matter and respectfully requests that this Honorable Court grant Plaintiff and Defendant, Bank of America leave to extend the scheduling order. A proposed modified Scheduling Order is attached hereto. In support of this motion the Plaintiff states as follows:

1. A third-party defendant, Sheryl Lupo, has been recently served with a Motion to Amend Pleadings to Join Third-Party Defendant, Sheryl Lupo. The proposed third-party defendant has not, to the best of Plaintiff's knowledge, opposed said Motion.
2. If this Honorable Court grants the Assented to Motion to Amend Pleadings to Join Third-Party Defendant Sheryl Lupo the case strategy of both Lupo and Bank of America may and most probably will change. A new third party defendant would necessitate additional discovery, and time to perform that discovery, designate witnesses and create dispositive motions.
3. Discovery of and by the proposed third-party defendant, Sheryl Lupo still needs to be performed, as well as additional discovery of and by Lupo and Bank of America as a result of the review of discovery already produced, and as a result of any discovery produced by the proposed third-party defendant, Sheryl Lupo.
4. Additionally, even if this Honorable Court does not grant the Assented to Motion to Amend Pleadings to Join Third-Party Defendant Sheryl Lupo both Lupo and

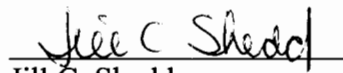
BankAmerica will still need additional time as both parties have delayed further discovery in anticipation of this Honorable Court's ruling in the aforementioned Motion to Amend Pleadings.

5. The delay in both fact discovery and potential dispositive motions will necessitate a delay in the pre-trial conference.

Thus, in the interest of justice the Plaintiff respectfully requests that this Honorable Court grant Plaintiff's Assented to Motion for Extend the Scheduling Order.

Respectfully Submitted,

Van A. Lupo
By his Counsel


Jill C. Shedd
BBO No. 652488

Law Office of Jill Shedd & Associates, P.C.
430 Franklin Village Drive
#212
Franklin, MA. 02038
508-720-9267

Assented To:

Bank of America
By its Counsel

/s/ assented to signature via email
E. Macey Russell
BBO No. 542371

Choate, Hall & Stewart, LLP
Two International Place
100-150 Oliver Street
Boston, MA. 02110
617-248-5000

DATED: February 13, 2006